

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Laura Kastner	Team: Squad #6	CCRB Case #: 201403955	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 03/22/2014 7:00 PM	Location of Incident: 1st Avenue and East 77th Street	Precinct: 19	18 Mo. SOL 9/22/2015	EO SOL 9/22/2015	
Date/Time CV Reported Thu, 04/24/2014 2:48 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 04/24/2014 2:48 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Maribel Collado	12414	945600	019 PCT
2. SGT Richard Romance	03433	931085	019 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Richard Romance	Abuse: In the vicinity of § 87(2)(b) in Manhattan, Sgt. Richard Romance stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POF Maribel Collado	Discourtesy: In the vicinity of § 87(2)(b) in Manhattan, PO Maribel Collado spoke discourteously to § 87(2)(b)	
C.SGT Richard Romance	Abuse: In the vicinity of § 87(2)(b) in Manhattan, Sgt. Richard Romance questioned § 87(2)(b) and § 87(2)(b)	
D.POF Maribel Collado	Abuse: In the vicinity of § 87(2)(b) in Manhattan PO Maribel Collado searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
E.SGT Richard Romance	Abuse: At the 19th Precinct stationhouse, Sgt. Richard Romance authorized the search of the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
F.SGT Richard Romance	Abuse: At the 19th Precinct stationhouse, Sgt. Richard Romance strip-searched § 87(2)(b) and § 87(2)(b)	

Case Summary

On April 24, 2014, § 87(2)(b) called the CCRB to file a complaint (encl. D1-D4). At 7:00 p.m. on March 22, 2014, § 87(2)(b) was in a car with § 87(2)(b). They were pulled over and arrested by Sgt. Richard Romance and PO Maribel Collado from the 19th Precinct in the vicinity of 1st Avenue and East 77th Street in Manhattan. The following allegations resulted:

- **Allegation A – Abuse of Authority: In the vicinity of 1st Avenue and East 77th Street in Manhattan, Sgt. Richard Romance stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.**
- **Allegation C – Abuse of Authority: In the vicinity of 1st Avenue and East 77th Street in Manhattan, Sgt. Richard Romance questioned § 87(2)(b) and § 87(2)(b)**
- **Allegation F – Abuse of Authority: At the 19th Precinct stationhouse, Sgt. Richard Romance strip-searched § 87(2)(b) and § 87(2)(b)**
§ 87(2)(b), § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
- **Allegation B – Discourtesy: In the vicinity of 1st Avenue and East 77th Street in Manhattan, PO Maribel Collado spoke discourteously to § 87(2)(b)**
§ 87(2)(g)
§ 87(2)(b)
- **Allegation D – Abuse of Authority: In the vicinity of 1st Avenue and East 77th Street in Manhattan PO Maribel Collado searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.**
- **Allegation E – Abuse of Authority: At the 19th Precinct stationhouse, Sgt. Richard Romance authorized the search of the car in which § 87(2)(b) and § 87(2)(b) were occupants.**
§ 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)

This case was not mediation eligible.

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- For § 87(2)(b) pedigree and employment information, see encl. D13-D14.

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on May 22, 2014 (encl. D13-D20) and provided a phone statement on June 27, 2014 (encl. D21). The statements were generally consistent with differences noted below:

At approximately 7:00 p.m. on March 22, 2014, § 87(2)(b) and his friend, § 87(2)(b) pulled up to § 87(2)(b) girlfriend, § 87(2)(b)'s residence in a gray Honda Accord.

§ 87(2)(b) drove and § 87(2)(b) sat in the front passenger seat. § 87(2)(b) approached the car and § 87(2)(b) spoke on his cell phone as § 87(2)(b) and § 87(2)(b) spoke to each other through the front driver's window. § 87(2)(b) never made contact with § 87(2)(b). He did not have a clear view of § 87(2)(b) and did not know if she and § 87(2)(b) made contact. No objects were exchanged and he did not believe anyone had money in their hands. After 15 to 30 minutes, the men drove away.

In the vicinity of 1st Avenue and East 77th Street, § 87(2)(b) and § 87(2)(b) were pulled over via lights and sirens by Sgt. Richard Romance and PO Maribel Collado (for officer descriptions, see encl. D13-D20), who were in an unmarked police taxi. § 87(2)(b) opened his window and kept his hands on the steering wheel as Sgt. Romance approached his door. § 87(2)(b) held his cell phone near his chest with both hands. As PO Collado approached the passenger's side, she ordered § 87(2)(b) to either, "Get the fuck off your phone and put your hands in the air" or "Put the fucking phone down now." § 87(2)(b) could not recall PO Collado's exact words, but was sure she used the word "fuck." § 87(2)(b) put his phone down and placed his hands on his legs.

Sgt. Romance asked § 87(2)(b) where he was coming from and where he was going. § 87(2)(b) said he was driving around and came from seeing § 87(2)(b). Sgt. Romance asked if § 87(2)(b) had given § 87(2)(b) anything and may have asked if he sold her drugs. § 87(2)(b) denied this. Sgt. Romance ordered § 87(2)(b) to exit the car and he complied. As § 87(2)(b) stood on the driver's side, § 87(2)(b) heard him be instructed to place his hands on the car, which led § 87(2)(b) to believe that § 87(2)(b) was searched, although he did not see this. PO Collado ordered § 87(2)(b) to exit the car and then frisked and searched him. Neither § 87(2)(b) nor § 87(2)(b) had narcotics on them.

When § 87(2)(b) first exited the car, he saw that PO Constantine Kaloudakis and PO Alexander Kremer had arrived in a car he could not describe and that PO Tony Hum and PO Matthew Blatz had arrived in a patrol car (for officer descriptions, see encl. D13-D20). After PO Collado searched him, but before § 87(2)(b) car was searched, § 87(2)(b) was searched again by a different officer. [During his June 27, 2014 phone statement, § 87(2)(b) said that PO Kaloudakis frisked him either immediately before or after the car search (detailed below).]

§ 87(2)(b) and § 87(2)(b) were kept at the rear of the car with PO Kremer. § 87(2)(b) whose back was to § 87(2)(b) car, turned his head a few times and saw that all the car doors were open. Through the tinted rear window, § 87(2)(b) saw the shadows of Sgt. Romance, PO Collado and PO Kaloudakis moving things around inside the car and he heard the sound of a seat being repositioned. Eventually, Sgt. Romance asked § 87(2)(b) "Do you want to give us the drugs or do we have to take you in?" § 87(2)(b) asked what drugs he was talking about. Sgt. Romance said the officers would take the men in and strip search them.

§ 87(2)(b) and § 87(2)(b) were transported to the 19th Precinct stationhouse separately. After being searched again by PO Kremer near the front desk, § 87(2)(b) was brought to the Juvenile Room. Sgt. Romance instructed him to remove his outer clothing and hand it to him. Sgt. Romance and PO Kaloudakis then patted down the clothes. Sgt. Romance instructed § 87(2)(b) to pull down his underwear, bend over and squat and § 87(2)(b) complied. PO Kremer sat at the rear of the room but did not participate in the strip search.

§ 87(2)(b) asked both Sgt. Romance and PO Kremer for paperwork or officer information to

document that he was there, but neither provided it to him and while escorting him from the stationhouse PO Kremer stated that § 87(2)(b) was going home, but did not have to go home. Believing he would be arrested again if he did not leave, § 87(2)(b) left after the strip search concluded. The entire incident lasted four to six hours.

Victim: § 87(2)(b)

- For § 87(2)(b) pedigree and employment information, see encl. D5-D6.

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on May 22, 2014 (encl. D5-D12). His statement was generally consistent with § 87(2)(b) statement with the differences noted below:

§ 87(2)(b) held her dog's leash in one hand, but no one had anything else in their hands as she stood outside of § 87(2)(b) car talking to him. At one point, § 87(2)(b) leaned her arms on the open driver's window, stuck her head inside the car and kissed § 87(2)(b) cheek. Aside from this, § 87(2)(b) made no physical contact with either § 87(2)(b) or § 87(2)(b). No objects were exchanged. § 87(2)(b) left to go home after about 10 minutes.

Sgt. Romance asked § 87(2)(b) what he was doing in the area and where he came from, and he said he had just come from talking to § 87(2)(b). Sgt. Romance asked if he was sure he was not selling § 87(2)(b) anything and § 87(2)(b) said he was. Sgt. Romance said he had seen § 87(2)(b) sell § 87(2)(b) things and take money from her. § 87(2)(b) denied this.

At the rear of the car, Sgt. Romance frisked and searched § 87(2)(b) and then handcuffed him. § 87(2)(b) was also frisked, though § 87(2)(b) did not know by whom. He could not see whether § 87(2)(b) pockets were searched from his position. Sgt. Romance and PO Kaloudakis then searched § 87(2)(b) car. § 87(2)(b) saw Sgt. Romance enter through the front driver door and PO Kaloudakis enter through the front passenger door. The officers shined their flashlights inside and moved things around, but § 87(2)(b) could not see their exact actions from his position. Sgt. Romance and other officers kept asking § 87(2)(b) where the drugs were, but he said he had none. No narcotics were recovered.

After being searched again by Sgt. Romance near the stationhouse front desk, § 87(2)(b) was lodged in a holding cell. After two or three hours, he asked to use the bathroom. Sgt. Romance, PO Kaloudakis and possibly another officer escorted him to a rear bathroom. One officer, § 87(2)(b) could not recall which, said before § 87(2)(b) could use the bathroom, he had to remove his shirt, pull down his pants and boxers, bend down, squat and cough. § 87(2)(b) complied. No narcotics were recovered during the strip search.

§ 87(2)(b) was released approximately 15 minutes later. His car, which was not vouchered, was parked outside. The paperwork that had been inside the closed center console was scattered on the seats and floor. The glove box was opened and papers were falling out of it. § 87(2)(b) temporary license plate that had been in the glove box was on the floor. The fuse box near the foot of the front passenger's seat was open. Additionally, the contents of § 87(2)(b) trunk, including a music system, a small box containing letters and a duffle bag containing a shell casing from a gun range § 87(2)(b) had recently visited, had been moved around.

Witness: § 87(2)(b)

- § 87(2)(b)'s pedigree and employment information are unknown.

Phone Statement

On June 24, 2014, § 87(2)(b) provided a phone statement (encl. D22).

§ 87(2)(b)'s boyfriend, § 87(2)(b) called her to say he was in the neighborhood as she was walking her dog. § 87(2)(b) pulled in front of § 87(2)(b)'s apartment building with § 87(2)(b) reached into the car and hugged § 87(2)(b) but made no additional physical contact with either man throughout the 10 to 15 minutes they spoke. § 87(2)(b)'s hands never made contact with either man's hands and they did not give each other anything. § 87(2)(b) had her cell phone and keys with her. § 87(2)(b) had nothing in his hands and § 87(2)(b) could not recall whether § 87(2)(b) did. § 87(2)(b) did not know if § 87(2)(b) and § 87(2)(b) had narcotics with them. She witnessed none of their interactions with the officers.

NYPD Statements:

Subject Officer: PO MARIBEL COLLADO

- For PO Collado's pedigree and assignment information, see encl.E3).

Memo Book

7:40 p.m., Observed two males in vehicle make transaction with unknown female. 8:19 p.m., Two arrested males taken to stationhouse. 8:25 p.m., Arrive at stationhouse with male perpetrators. 9:30 p.m., § 87(2)(b)

Arrest Reports

The arrest report narratives for § 87(2)(b) and § 87(2)(b) state that they were approached by § 87(2)(b) and made a hand exchange of U.S. currency and alleged drugs. PO Collado heard § 87(2)(b) ask for change and place the alleged drugs in her pocket. Both arrests for criminal sale of a control substance were voided and sealed (see enclosed folder).

CCRB Statement

PO Collado was interviewed at the CCRB on September 17, 2014 (encl. E3-E7) and December 18, 2014 (encl. E7a-E7c).

At approximately 7:40 p.m. on March 22, 2014, while parked in an unmarked taxi with Sgt. Romance, PO Collado observed § 87(2)(b) walk out of a building and approach the driver's side of § 87(2)(b) car. The car was double parked with the engine running across the street on East 73th Street between 1st Avenue and York Avenue in Manhattan.

PO Collado exited the taxi. § 87(2)(b) car was in a well-lit area and from 10 feet away, she saw § 87(2)(b) speak with § 87(2)(b) and engage in what she believed was a hand-to-hand drug transaction. The palms of § 87(2)(b) and § 87(2)(b)'s hands met for approximately one second. PO Collado could not see what was in § 87(2)(b)'s hand because it was cupped so that his fingers were bent over his palm, concealing what, if anything, was in his hand. § 87(2)(b) removed money from her pocket, handed it to § 87(2)(b) and asked for \$10 change. § 87(2)(b) removed money for her, but PO Collado could not see from where.

§ 87(2)(b) and § 87(2)(b) continued talking, but PO Collado could not hear what they said. PO Collado heard § 87(2)(b) say she would let § 87(2)(b) know “how it was” before she walked away. PO Collado saw no additional physical contact between the civilians and money was the only object she saw in anyone’s hands. Nothing obstructed her view of the scene and she never lost sight of the car prior to § 87(2)(b) driving away.

PO Collado radioed Sgt. Romance that she “saw the transaction.” She did not recall what exactly she said to Sgt. Romance about her observations, but aside from what she told him initially, she gave him no additional information about her observations during the incident. She never saw anything that she believed to be alleged drugs and never told Sgt. Romance that she did. PO Collado chose the use the words “alleged drugs” in the voided arrest report narratives because the totality of her observations led her to believe that drugs had been exchanged.

PO Collado said she would stop § 87(2)(b) but that § 87(2)(b) had a large dog with her. Sgt. Romance instructed PO Collado to return to the taxi and said they would stop § 87(2)(b) and § 87(2)(b) instead. They initiated a car stop on 1st Avenue between East 77th Street and East 78th Street. Sgt. Romance approached the driver’s side. As PO Collado approached the passenger’s side, she saw § 87(2)(b) pick up his cell phone from his lap with his right hand and move his left hand near the center console. PO Collado saw no objects other than the cell phone in § 87(2)(b) hands and did not know what he was doing with his left hand. She told § 87(2)(b) “Place your hands up. Don’t move. I don’t want to get hurt and I don’t want you to get hurt.” PO Collado did not tell § 87(2)(b) to get the “fuck” off his phone or to put the “fucking” phone down. She used no profanity during this incident.

Both civilians were immediately removed from the car. PO Collado frisked § 87(2)(b) for her safety. Sgt. Romance frisked § 87(2)(b) although PO Collado did not see this. Aside from that mentioned above, PO Collado observed § 87(2)(b) make no additional movements prior to frisking him. PO Collado did not ask or hear an officer ask what the civilians were doing in the area, where they came from, where the drugs were or if they had given § 87(2)(b) anything. She did not recall asking or hearing an officer ask if the civilians had sold § 87(2)(b) drugs.

§ 87(2)(b) and § 87(2)(b) were handcuffed and escorted to the car’s rear. Sgt. Romance stayed with § 87(2)(b) and § 87(2)(b) and when PO Kaloudakis and PO Kramer arrived, they stood near them but took no further actions. PO Collado returned to the passenger side of the car and checked to see if there was anything inside the center console because that was where she saw § 87(2)(b) hand movement. PO Collado searched no other parts of the car at the scene. Nothing was recovered and PO Collado did not recall any other officer entering the car. PO Collado first mentioned smelling a strong odor of marijuana after the point of her interview where she described the car search, but later said she smelled marijuana upon approaching the car at the initiation of the car stop. PO Collado saw nothing lit and saw no smoke inside the car.

At some point, Sgt. Romance had instructed the officers to place § 87(2)(b) and § 87(2)(b) under arrest. He also instructed PO Collado to transport § 87(2)(b) car to the stationhouse. § 87(2)(b) and § 87(2)(b) were transported there to determine whether there was evidence of a drug transaction. PO Collado was unaware of § 87(2)(b) and § 87(2)(b) being strip-searched. PO Collado conducted an inventory search of the car in front of the stationhouse by herself. She searched the car’s interior, but could not recall if she searched the center console or glove compartment. She did not search the trunk. Nothing illegal was recovered from the car and the car was not vouchered. PO Collado prepared no documentation of the inventory search.

After officers determined who § 87(2)(b) and § 87(2)(b) were and because nothing was found in the car, PO Collado voided the arrests and the men were released from the stationhouse.

Subject Officer: SGT. RICHARD ROMANCE

- *For Sgt. Romance's pedigree and assignment information, see encl. E11.*

Memo Book

Sgt. Romance's memo book entries were consistent with his CCRB statement (encl. E8-E10).

CCRB Statement

Sgt. Richard Romance was interviewed at the CCRB on October 21, 2014 (encl. E11-E15). His statement was generally consistent with PO Collado's statement with differences noted below:

Sgt. Romance did not have a view of the interior of § 87(2)(b) car, but PO Collado called him via cell phone and described what she believed was a hand-to-hand drug transaction. PO Collado said she saw § 87(2)(b) walk to the driver's side of the car and hand someone inside the car money and that someone in the car handed her what appeared to be narcotics. PO Collado heard § 87(2)(b) ask for change before walking away. Sgt. Romance instructed PO Collado not to stop § 87(2)(b) due to the danger of her large dog and decided to initiate a car stop and arrest the occupants based on PO Collado's described observations.

Sgt. Romance did not recall observing any movement inside the car. PO Collado did not tell § 87(2)(b) to get the "fuck" off that phone or to put the "fucking" phone down. As Sgt. Romance reached § 87(2)(b) open driver's window, he smelled the distinct smell of marijuana. When asked to describe the intensity of the smell, Sgt. Romance said it was just "a marijuana smell." He saw nothing lit, no smoke and observed no symptoms of drug use on either civilian.

Sgt. Romance asked for § 87(2)(b) license and registration. § 87(2)(b) who was cooperative, asked why he had been stopped. Sgt. Romance said it was because the car smelled like marijuana and because the officers believed the civilians had engaged in a drug transaction, which § 87(2)(b) denied. Sgt. Romance asked things to the effect of where § 87(2)(b) was coming from, who he was going to see on the block and who § 87(2)(b) was. § 87(2)(b) said he was visiting a friend and had done nothing wrong. When prompted, Sgt. Romance acknowledged that he may have asked, "So you didn't sell § 87(2)(b) any drugs?"

Sgt. Romance waited for PO Kremer and PO Kaloudakis before ordering § 87(2)(b) and § 87(2)(b) to exit the car. Sgt. Romance informed the officers that § 87(2)(b) and § 87(2)(b) were under arrest and the civilians were escorted to the car's rear. From the rear, Sgt. Romance saw PO Collado place her upper body inside the front passenger's door of § 87(2)(b) car for "maybe a minute." Sgt. Romance had not instructed PO Collado to search the car and did not know what actions she took while inside. Sgt. Romance never entered § 87(2)(b) car and he saw no officer aside from PO Collado do so. Sgt. Romance frisked and searched § 87(2)(b). He could not recall who frisked § 87(2)(b).

§ 87(2)(b) and § 87(2)(b) were again searched near the stationhouse front desk with negative results. § 87(2)(b) was lodged in a holding cell and § 87(2)(b) was removed to the Juvenile Room. Sgt. Romance instructed PO Collado to search § 87(2)(b) car for narcotics and to see what else was inside the car. Sgt. Romance was not present during this car search,

which he described as an inventory search. He was unaware of the search being documented anywhere.

In the Juvenile Room with PO Kaloudakis present, Sgt. Romance asked § 87(2)(b) if he had any additional layers of clothing on underneath his outer layer. § 87(2)(b) said no. Sgt. Romance instructed § 87(2)(b) to remove his sweatshirt, socks and shoes. § 87(2)(b) complied. Sgt. Romance searched § 87(2)(b) from his shoulders down to his waistband. When Sgt. Romance asked if § 87(2)(b) had any additional clothing layers on underneath his jeans, § 87(2)(b) began taking his pants off, but Sgt. Romance instructed him to keep them on. Sgt. Romance felt inside § 87(2)(b) waistband with his fingers. No contraband was recovered.

In the holding cell area, Sgt. Romance then asked § 87(2)(b) if he had any additional layers of clothing on underneath his outer layer. § 87(2)(b) said no and requested to use the bathroom. Sgt. Romance and PO Kaloudakis escorted him there. After § 87(2)(b) used the facilities, Sgt. Romance instructed him to remove his sweatshirt, shoes and socks and § 87(2)(b) complied. Sgt. Romance conducted the same waistband search that was described above and felt down § 87(2)(b) legs and ankles. No contraband was recovered.

Sgt. Romance discussed the situation with PO Collado and PO Kaloudakis. PO Collado was sure she had witnessed a hand-to-hand drug transaction, but after not finding anything on their persons or during the car search at the stationhouse, Sgt. Romance felt the case would not be able to be prosecuted and decided to void the arrests. § 87(2)(b) and § 87(2)(b) were then released.

NYPD Documents

For details of the Event Chronology and the 19th Precinct Command Log and Roll Call, see encl. F1-F4, F5-F10 and F17-F25.

Status of Civil Proceedings

§ 87(2)(b) and § 87(2)(b) filed a Notice of Claim with the City of New York on April 15, 2014, claiming psychological and physical distress, fear and other trauma, and deprivation of liberty as a result of their car being stopped and searched and them first being searched and then strip-searched. They are seeking an unspecified amount of money as redress (encl. G1-G2).

§ 87(2)(b)

Subject Officers' CCRB History

Sgt. Romance, a 12 year-member-of-the-service, and PO Collado, a six year-member-of-the-service, have no substantiated CCRB allegations against them (encl. B1-B2).

Conclusion

Identification of Subject Officers

- Sgt. Romance and PO Collado acknowledged interacting with § 87(2)(b) and § 87(2)(b).
- Because Sgt. Romance made the decision to conduct the car stop and instructed PO Collado to search the car at the stationhouse, Allegations A and E have been pled to him.
- Although § 87(2)(b) and § 87(2)(b) alleged that PO Collado and additional officers

participated in the search of § 87(2)(b) car at the initial scene, the car search occurred solely as a result of PO Collado's observations of the alleged drug transaction and therefore, based on the Fellow Officer Rule, only PO Collado should be held culpable. Furthermore, Sgt. Romance denied instructing PO Collado to conduct the car search. Therefore, Allegation D has only been pled to PO Collado.

Allegations Not Pled

- Sgt. Romance said he intended to arrest § 87(2)(b) and § 87(2)(b) upon initiating the car stop. Because they had to be transported to the stationhouse for arrest processing, the frisks and alleged searches at the initial scene were necessary to ensure the safety of the officers throughout the remainder of the incident. Therefore, these allegations have not been pled.
- § 87(2)(b) alleged that he asked Sgt. Romance "for anyone's information or for any paperwork" to document that he was there, but that Sgt. Romance did not provide § 87(2)(b) with either. § 87(2)(b) also alleged that when he asked PO Kremer for paperwork to document him being at the stationhouse, PO Kremer said that § 87(2)(b) was going home, but that he did not have to go home. Due to the vague nature of both § 87(2)(b) request to Sgt. Romance and PO Kremer's alleged response to § 87(2)(b) these allegations have not been pled.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: In the vicinity of 1st Avenue and East 77th Street in Manhattan, Sgt. Richard Romance stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation C – Abuse of Authority: In the vicinity of 1st Avenue and East 77th Street in Manhattan, Sgt. Richard Romance questioned § 87(2)(b) and § 87(2)(b)

It is undisputed that Sgt. Romance and PO Collado stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants. A preponderance of evidence (civilian statements and Sgt. Romance's statement) indicates that Sgt. Romance asked the civilians where they were coming from, who they were going to see, who § 87(2)(b) was and whether they had sold § 87(2)(b) drugs.

Officers may stop a vehicle based upon a reasonable suspicion that the driver or occupants have committed, are committing or are about to commit a crime. *People v. Taylor*, 31 A.D.3d 1141 (2006) (encl. A1-A2). To question a person about their destination or reason for being in an area, an officer must have an objective credible reason for doing so. *People v. DeBour*, 40 N.Y.2d 210 (1976) (encl. A3-A13). Accusatory questions that focus on the possible criminality of the person must be supported by founded suspicion that criminality is afoot. *People v. Hollman*, 79 N.Y.2d 181 (1992) (encl. A14-A21). Observing a pedestrian lean into a stationary car containing occupants, but not seeing one individual give the other something in return for something else and not seeing money exchanged, generates a founded suspicion but not reasonable suspicion that criminality is afoot. *People v. Loper*, 2014 NY Slip Op 1771 (encl. A22-A24). Under the "Fellow Officer Rule," probable cause may be supplied by hearsay information and an officer is entitled to act on the strength of information acquired from a fellow officer on the presumption that the information is reliable and accurate. *People v. Landy*, 59 N.Y.2d 369 (1983) (encl. A25-A29).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

f

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation B – Discourtesy: In the vicinity of 1st Avenue and East 77th Street in Manhattan, PO Maribel Collado spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that PO Collado used the word “fuck” while ordering him to get off his phone and put his hands in the air. PO Collado acknowledged ordering § 87(2)(b) to put his hands up, but denied using the word “fuck” and Sgt. Romance denied hearing her do so. § 87(2)(g)

Allegation D – Abuse of Authority: In the vicinity of 1st Avenue and East 77th Street in Manhattan PO Maribel Collado searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that § 87(2)(b) car was searched at the initial scene. While § 87(2)(b) and § 87(2)(b) alleged that two or three officers participated in the search, Sgt. Romance and PO Collado were consistent in their assertion that PO Collado searched the car by herself. The civilians could not see what areas of the car were searched, but PO Collado said she searched the center console area because she saw § 87(2)(b) make a hand movement near that area.

When an officer detects the odor of marijuana inside a vehicle, the officer has probable cause to search the entire vehicle only if the vehicle was properly stopped or if there exists probable cause to make an arrest. People v. Smith, 66 A.D.3d 514 (1st Dept. 2009) (encl. A30). Absent probable cause, an officer may not search a vehicle once the suspects have been removed and frisked without incident, as any immediate threat to the officers’ safety has been eliminated. People v. Torres, 74 N.Y.2d 224 (1989) (encl. A31-A37).

PO Collado and Sgt. Romance both said that they smelled marijuana upon approaching § 87(2)(b) car, although no narcotics were recovered and the civilians denied having or consuming any prior to this incident. § 87(2)(g)

§ 87(2)(g)



§ 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation E – Abuse of Authority: At the 19th Precinct stationhouse, Sgt. Richard Romance authorized the search of the car in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that PO Collado searched § 87(2)(b) car at the stationhouse upon Sgt. Romance's instruction. Sgt. Romance described the authorized car search as an inventory search.

NYPD Interim Order No. 27 (2013) states that the purpose of an inventory search of a vehicle in police custody must be to protect property, ensure against unwarranted claims of theft, and to protect officers and others against dangerous instrumentalities. Property of little value that is left inside the car should, within reason, be listed in the inventorying officers' memo book and cross referenced to the invoice number covering any valuables removed (encl. A38-A39).

§ 87(2)(g)

§ 87(2)(g)

Allegation F – Abuse of Authority: At the 19th Precinct stationhouse, Sgt. Richard Romance strip-searched § 87(2)(b) and § 87(2)(b)

It is undisputed that Sgt. Romance strip-searched § 87(2)(b) and § 87(2)(b)

A strip search may only be conducted when the arresting officer reasonably suspects that weapons, contraband or evidence may be concealed on the person or in the clothing in such a manner that they may not be discovered by the previous search methods. NYPD Interim Order No. 5 (2009) (encl. A40-A42).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted].

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date